

REMARKS

The Applicants hereby submit this Amendment and Request For Reconsideration in response to the Office Action mailed on 14 May 2007 for the subject application.

In the present Amendment, the Applicants amend claims 1, 3-7, 10, 12, 15-16, 20-21, 23, 26, 28-30, 32-34, and 37, and add new claims 39-43. Therefore, claims 1-43 as amended are pending in the present application for reconsideration. In this amendment, no new matter has been entered; the changes to the claims are fully supported in the present application as originally filed.

In the Office Action of 21 November 2006, the Examiner rejected claims 1-38 of the present application under 35 U.S.C. § 102(e) as being anticipated by Mustafa (US Patent Application Publication No. US 2002/0087716). In addition, the Examiner rejected some dependent claims under 35 U.S.C. § 103(a) in further view of Ryan et al. (US Patent Application Publication No. US 2004/0095903). In response, the Applicants respectfully disagree with the rejections and submit that the claims as amended are allowable over the prior art for at least the following reasons.

In order for claims to be properly rejected under 35 U.S.C. § 102(e) and § 103(a), the prior art must teach or suggest each and every limitation of the claims. In the present case, the prior art of record fails to teach or suggest every limitation of the present claims.

Regarding claims 1-33. Claims 1-33 of the present application are specifically directed to techniques performed by a mobile communication device adapted to operate in a wireless communication network. On the other hand, most techniques of Mustafa are performed

by servers or routers in the network, for data traffic to/from multiple clients. Little or no emphasis is placed on mobile communication devices and/or wireless networks within which they operate. Further, it is emphasized in Mustafa that "the technique should be completely transparent to the intermediate data link devices which can be unaware of the working methodology of the preferred embodiment. In other words the existing data link network infrastructure does not need to be modified for the use of this technique" (see paragraph 0006 on pp 1-2 of Mustafa). As a result, the techniques of Mustafa would also likely remain transparent to the clients, so that the clients need not utilize any special technique. Thus, Mustafa does not readily appreciate techniques to be performed by "clients" such as mobile communication devices which are adapted to operate in wireless networks.

Specifically, the technology of Mustafa pertains to a system and method which are provided to simultaneously support customized multi-priority services that can be used to transmit multi-priority data link layer frames to a destination host using a single or multiple communication links. Relevant teachings of Mustafa which pertain to "client" techniques are described in relation to paragraph 147 on page 18 of Mustafa. There, it is initially taught that

Another feature that can be provided by this invention is to redirect a phone call being originated through a PSTN network to a user in the event the connecting link is being used for Internet access. The majority of the Internet users still rely upon modem access for dialing out to a RAS through telephone lines. Even though the Internet has become very popular, still most of the users have only one single telephone line installed at their homes which is utilized for both purposes. During the Internet web sessions the majority of phone calls

are missed. The preferred embodiment can also be used to present a very practical solution to this problem.

The solution to this problem in Mustafa is stated as follows:

In the event a PSTN switch receives a busy signal from a user site which probably means that telephone line is being used for the Internet access, the incoming telephone call is redirected to the user's logon RAS by the PSTN switch. Once the call is received by the said RAS, after proper identification, it converts the contents of the voice call into prioritized data link voice frames in accordance with the description of the preferred embodiment.

Mustafa continues by applying the above solution to an outbound call made from the client station:

It should be noticed that the same technique can be used by the user to make outgoing phone calls while still surfing on the Internet. In the event a phone call needs to be made the client station converts the voice call contents to proper data link frames and forwards these priority frames to the logon RAS. The RAS changed the framing format and hands over the voice call to the PSTN switch for further processing and distribution.

As apparent from the above teachings, Mustafa provides solutions to a problem associated with a single "landline" telephone connection which is shared between a landline telephone for telephone calls and a computer (inherent in Mustafa) for Internet communications. However, this system environment which utilizes a landline telephone connection is not the preferred environment for techniques of the present application.

For one, the techniques of the present application as claimed in claims 1-33 are directed to a mobile communication device which

operates in a wireless communication network. The mobile communication device of the present application utilizes a radio traffic channel with the wireless communication network for the communication of user data for a connected data communication session. This environment is different from the environment of Mustafa, which involves a landline telephone having a single landline telephone connection. If the landline telephone of Mustafa were a mobile communication device which operated in a wireless communication network, then the problem of sharing the single landline telephone connection in Mustafa would likely not exist. Further, there is no detailed discussion in Mustafa of a radio traffic channel with a wireless communication network, let alone a radio traffic channel which is "torn down" in response to actions made by the telephone. If the Examiner is asserting any inherency or other argument based on these teachings, then the Examiner has failed to articulate such rejections to establish a prima facie case.

In addition, the technique of the present application as claimed in claims 1-33 is directed to a mobile communication device which is engaged in a connected data communication service via a wireless communication network. As claimed, this mobile communication device is the same device which receives the voice call request for the voice call. In Mustafa, the computer which utilizes the landline telephone connection for Internet communications is not described as being a mobile communication device, let alone a mobile communication device which is engaged in a connected data communication service. It also appears that the landline telephone and the computer of Mustafa are two different entities. If the Examiner is asserting any inherency or other argument based on these teachings, then the Examiner has failed to articulate such rejections to establish a prima facie case.

With respect to dependent claims, the act of causing the radio traffic channel to be torn down comprises the further act of "causing a release order to be transmitted from the mobile communication device" (e.g. dependent claim 5 and others). This step is not taught or suggested in Mustafa, and the Examiner has not identified any such step in the reference. Also, the prior art of record fails to teach or suggest a connected data communication service being entered into a "dormant state" upon tearing down the traffic channel for the service (e.g. see dependent claim 3 and others). The term "dormant state" is a term of art which is well-understood by those ordinarily skilled in the field (see e.g. page 1 at lines 26-32 through page 2 at lines 1-4). If the Examiner is not interpreting the term "dormant state" as one ordinarily skilled in the art would so interpret, then the Examiner's interpretation is not reasonable.

Based on the above, the Applicants respectfully submit that claims 1-33 are allowable over the prior art of record. Other reasons for the allowability of claims 1-33 over the prior art are apparent to those of ordinary skill in the art, and are not outlined herein due to the sufficient reasons for allowability already provided above.

Regarding claims 34-43. Claims 34-43 of the present application are specifically directed to techniques which are performed in association with mobile communication devices and/or in the wireless communication networks within which they operate. In Mustafa, little or no focus is placed on wireless communication networks or mobile communication devices which operate utilizing radio communication links. Thus, Mustafa do not readily appreciate techniques involving wireless communication networks and/or mobile communication devices which are adapted to operate in such wireless networks.

The technology of Mustafa largely pertains to a system and method which are provided to simultaneously support customized multi-priority services that can be used to transmit multi-priority data link layer frames to a destination host using a single or multiple communication links. In relation to paragraph 147 on page 18 of Mustafa, it is described that

Another feature that can be provided by this invention is to redirect a phone call being originated through a PSTN network to a user in the event the connecting link is being used for Internet access. The majority of the Internet users still rely upon modem access for dialing out to a RAS through telephone lines. Even though the Internet has become very popular, still most of the users have only one single telephone line installed at their homes which is utilized for both purposes. During the Internet web sessions the majority of phone calls are missed. The preferred embodiment can also be used to present a very practical solution to this problem.

The solution to this problem in Mustafa is stated as follows:

In the event a PSTN switch receives a busy signal from a user site which probably means that telephone line is being used for the Internet access, the incoming telephone call is redirected to the user's logon RAS by the PSTN switch. Once the call is received by the said RAS, after proper identification, it converts the contents of the voice call into prioritized data link voice frames in accordance with the description of the preferred embodiment.

Mustafa continues by applying the above solution to an outbound call made from the client station:

It should be noticed that the same technique can be used by the user to make outgoing phone calls while still surfing on the Internet. In the event a phone call needs to be made the

client station converts the voice call contents to proper data link frames and forwards these priority frames to the logon RAS. The RAS changed the framing format and hands over the voice call to the PSTN switch for further processing and distribution.

As apparent from the above teachings, Mustafa provides solutions to a problem associated with a single "landline" telephone connection which is shared between a landline telephone for telephone calls and a computer (inherent in Mustafa) for Internet communications. However, this system environment which utilizes a landline telephone connection is not the preferred environment for techniques of the present application.

For one, the techniques of the present application as claimed in claims 34-43 are useful in connection with a wireless communication network and/or a mobile communication device which operates in such wireless communication network. The wireless communication network and the mobile communication device of the present application utilize a radio traffic channel for the communication of user data for a connected data communication session. This environment is different from the environment of Mustafa, which involves a landline telephone and a computer which utilize a single landline telephone connection. If the landline telephone of Mustafa were a mobile communication device which operated in a wireless communication network, then the problem of sharing the single landline telephone connection in Mustafa would likely not exist. Further, there is no detailed discussion in Mustafa regarding any radio traffic channel with a wireless communication network, let alone a radio traffic channel which is "torn down" in response to actions made by the network or the telephone. If the Examiner is asserting any inherency or other argument based on these teachings, then the

Examiner has failed to articulate such rejections to establish a prima facie case.

In addition, the techniques of the present application as claimed in claims 34-43 are useful in connection with a mobile communication device which is engaged in a connected data communication service via a wireless communication network. As claimed, this mobile communication device is the same device which receives the voice call request for the voice call. In Mustafa, the computer which utilizes the landline telephone connection for Internet communications is not described as a mobile communication device, let alone a mobile communication device which is engaged in a connected data communication service. It also appears that the landline telephone and the computer of Mustafa are two different entities. If the Examiner is asserting any inherency in Mustafa, then the Examiner has failed to articulate such rejections to establish a prima facie case.

Further arguments exist for the allowability of claims 34-43. The prior art of record (including Mustafa) fails to teach or suggest the steps of "in response to receiving the voice call request for the voice call involving the mobile communication device during the connected data communication service: causing the traffic channel for the connected data communication service to be torn down without terminating the PPP session; and causing the voice call involving the mobile communication device to be established and maintained via the wireless communication network while the PPP session for the data communication service is maintained." Specifically, Mustafa does not teach or suggest the "tearing down" of a radio traffic channel that is utilized for the connected data communication service. Prioritization of the communication of data

frames may take place in Mustafa, but not any tearing down of a radio traffic channel to terminate further user data during a voice call.

Regarding dependent claims, the prior art of record fails to teach or suggest a connected data communication service being entered into a "dormant state" upon tearing down the radio traffic channel for the service (e.g. see dependent claim 37). The term "dormant state" is a term of art which is well-understood by those ordinarily skilled in the field of wireless network communications (see e.g. page 1 at lines 26-32 through page 2 at lines 1-4). If the Examiner is not interpreting the term "dormant state" as one ordinarily skilled in the art would so interpret, then the Examiner's interpretation is not reasonable.

Based on the above, the Applicants respectfully submit that claims 34-43 are allowable over the prior art of record. Other reasons for the allowability of claims 34-43 over the prior art are apparent to those of ordinary skill in the art, and are not outlined herein due to the sufficient reasons for allowability already provided above.

Since the prior art of record fails to teach or suggest each and every limitation of the claims, the rejections under 35 U.S.C. § 102(e) and § 103(a) fail and the claims are allowable over the prior art.

The Applicants respectfully request the Examiner to enter the amendment, withdraw the § 102(e) and § 103 rejections, and allow all of the pending claims. Again, the Applicants respectfully submit that the pending claims are allowable over the prior art of record and the application is in a condition suitable for allowance.

Thank you. Please feel free to contact the undersigned if it would expedite prosecution of the application.

Respectfully Submitted,

/John J. Oskorep/

Date: 14 August 2007

JOHN J. OSKOREP
Reg. No. 41,234

JOHN J. OSKOREP, ESQ. LLC
ONE MAGNIFICENT MILE CENTER
980 N. MICHIGAN AVENUE, SUITE 1400
CHICAGO, ILLINOIS 60611 USA

Telephone: (312) 222-1860

Fax: (312) 475-1850